

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare – West Godavari District –Revision Petition – filed under section 6 of A.P.S.A.L.T.R, 1959 by Sri Galem Laxminarayana & Smt Maddala Mangamma against the orders in SRA No.15/92, dt:4-12-2000 of the Agent to Government, West Godavari, Eluru – Allowed - Orders – Issued.

SOCIAL WELFARE (LTR-1) DEPARTMENT

G.O. Ms. No. 240

Dated. 24 -12-2008.

Read the following:

1. From Sri N.S.Bhaskara Rao, counsel for the petitioner in Revision Petition, dt:7-2-2001.
2. From the Hon'ble High Court of A.P in W.P No.25932/1997, dt:29-7-1998.
3. Government Memo No:2115/LTR-1/2001, dt:21-3-2001.
4. Government Memo No.2115/LTR-1/2001, dt:9-4-2001.
5. From the Collector, West Godavari, Eluru in ROC No.F4/3408/2001, dt: 23-5-2005.
6. Government Letter No.2115/LTR-1/2001, 3-8-2006, 17-6-2008, 21-7-2008.
7. Telegram No:2115/LTR-1/2001, dt:23-3-2007.

ORDER:

In the reference 1st read above Sri Galem Laxminarayana and another have filed a Revision Petition before the Government against the orders of the Agent to Government, Eluru in SRA No.15/92, dt:4-12-2000 in respect of land admeasuring Acres 6.51 cents in R.S No.271 of Koya Rajahmundry (V) of West Godavari District. The main grounds of the appellants in the Revision Petition among others are hereunder:-

- i. The courts below ought to have seen that the Dolu Caste is neither Hill Tribe as per provisions of Act 1/1917 nor a Tribe as per Constitutional Order.
 - ii. In the similar circumstances in W.P No.25932/97, the Hon'ble High Court of Andhra Pradesh through their order dt:29-7-1998, held that the Dolu Koya was not included as Hill Tribe in the Agency Tracts and interest and Land Transfer Act I of 1917, and hence they cannot claim the benefits of Act 1/1917. Therefore, the transaction is not hit by Act 1/1917.
2. The brief history of the case is that :-
- a.The Special Deputy Tahasildar (TW), No.11, Kotaramachandrapuram, filed complaint on 26-3-1991 that the lands measuring Acres 6.51 cents in R.S No.271 at Koya Rajahmundry village of Buttayagudem (M) was in possession and enjoyment of non-tribal respondents in contravention of Sub-section (1) of section (3) of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 as amended by Regulation 1/70.
 - b.Sri Soyam Gangaraju S/o Ramanna Dora, Village Assistant of Rajanagaram group village deposed on 15-7-1992 that Koya Rajahmundry is in his group villages. The land in R.S No.271 measuring Acres 6.51 cents is in the name of Elika Mutyalu etc. of Koya (Dolu) Community as per RSR 1933 of K. Rajahmundry village. An extent of Acres 3.00 cents is under the possession and enjoyment of Maddala Mangamma, Acres 0.50 cents is with Maddela Veerayya (obtained through scheduled), Acres 0.50 cents is with Smt. Alluri Somamma W/o Satyanarayan given by father as 'Pasupu kunkuma', Acres 2.01 in possession of Galem Laxminarayana and Acres 0.50 cents with Galem Somaraju and Gelam Subbanna are pattedars.
 - c.The land belongs to Elika Mutyalu and others who belong to Dolu community. Dolu and Dhulia or Dulia communities are one and the same and are included in the list of Scheduled Tribes.
 - d.The non-tribal respondents failed to attend the court and produce any records as to how they got the possession of lands from the tribals.
 - e.Hence, the Special Deputy Collector (TW), Kotaramachandrapuram directed to evict the non-tribals from an extent of Acres 6.01 cents out of Acres 6.51 cents for restoration to the tribal pattedars or their heirs and in their absence to assign them to the landless poor tribals and passed orders in SR.No.835/90, dt:15-7-1992, for ejectment of the non-tribals from the land in respect of Acres 6.01 cents.

Aggrieved by the orders of the Special Deputy Collector (TW), Kota Ramachandrapuram filed an appeal before the Agent to Government. The Agent to Government after giving reasonable opportunity and material evidence on record held that:-

- i) According to RSR 1933 of Koya Rajahmundry village, the schedule land was registered in the name of tribals viz., Elika Mutyalu and two others and also as seen from the deposition of village Assistant.
- ii) The non-tribal Appellants filed Photostat copy of registered sale deed dt:16-4-1942 according to which the scheduled land measuring Acres 6.51 in RS No.271 of Koya Rajahmundry village was sold by Elika Mutyalu, ST, in favour of non-tribal Katari Narayana without obtaining prior permission as required under Act 1917. Hence, the sale transaction is hit by provisions of LTR 1/59 read with Regulation 1/70.
- iii) Accordingly, the subsequent sale deed dt:25-5-1952 executed in favour of Sri Galem Subbanna by Sri Katari Narayana and also the settlement deed dt:25-4-1963 executed in favour of Smt. Mangayamma by her father Sri Galem Subbanna are also void under the provisions of Land Transfer Regulation.
- iv) Hence, the Agent to Government, in his proceedings in SRA No.15/92, dt:4-12-2000 confirmed orders of the lower court i.e. Special Deputy Collector (TW), Kotaramachandrapuram.

3. In the reference 3rd read above, the District collector, West Godavari was requested to furnish para-wise remarks and records the same were received in the reference 5th read above. After examination of the case records, notices were issued to the concerned to attend the hearings of the Revision Petition on 11-8-2006 but postponed and was heard on 24-3-2007, 30-6-2008 and was finally heard on 4-8-2008. Counsel for the petitioner and Sri Galem Radhakrishna on behalf of Galem Laxmi Narayana, the revision petitioner herein appeared and filed petition along with copy of Death Certificate issued by the Secretary, Gram Panchayat, Vedanthapuram, stating that his father Galem Laxminarayana expired on 18-11-2007 at Vedanthapuram (V) of Koyyalgudem (M) in West Godavari District and hence requested to add him self, his mother Smt. Galem Subbayamma and his younger brother Galem Keshava Rao as LR's of the 1st petitioner. LRs were brought on record. The counsel for the petitioner also produced certified copy of the judgment in W.A No. 2126 of 1998, dt:7-6-2002.

4. Government after careful examination of the case records of lower and appellate authorities, grounds urged by the petitioner in Revision Petition, written arguments and judgment of the Hon'ble High Court of A.P in WA No.2126 of 1998 submitted by the counsel for petitioner and material evidence on record found that:

- i). The basic issue considered by the lower and appellate authorities is that no permission was obtained under Section 4 of Act 1 of 1917 for the transaction held in the year 1942 between Elika Mutyalu who belongs to Dolu ST community and Katari Narayana, non-tribal through registered sale deed dt:16-4-1942 and hence the subsequent transaction between Katari Narayana and Galem Subbanna and succession to revision petitioners was also held void.
- ii). It is clear that the Dolu community was declared as Scheduled Tribe only in the year 1977 as notified in G.O Ms. No.205 (Social Welfare) dt:30-6-1977. Further in the Order No.187, Home (Judicial) dt:22-1-1918, the communities i.e. Konda Doras, Konda Kapus, Malas, Kammaras, Madigas were only notified as Hill Tribes for the purpose of Act 1 of 1917.
- iii). In a similar case in W.P No.25932 of 1997 filed by Kode Veeranna S/o Ramanna and 3 other non-tribals of Koyyalagudem (M) against the State Government and 4 others including Elika Durgappa (Dolu Community) of Koya Rajahmundry (V) as 5th respondent, the Hon'ble High Court of A.P held in its order dt:29-7-1998 that "in view of the Order No.187, dt:22-1-1918 which did not include Dolu Koya as one of the hill tribes, the 5th respondent cannot claim the benefit of Act 1/1917" and "if once the transaction is not hit by the Act 1/1917 the further question as to the validity of the transaction does not arise". In the Writ Appeal No.2126/1998 also, the Division Bench of the Hon'ble High Court vide its order dt:7-6-2002 confirmed judgment of the Hon'ble Single judge in the above W.P

holding that ‘there is also merit in the contention advanced on behalf of the petitioners that Dolu Koya community to which the 5th respondent (i.e. Erika Durgappa son of Erika Mutyalu) belongs was not treated as Scheduled Tribe before 1977, and, therefore, the initiation of the proceedings at his instance under Section 3(2) of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1/1959 read with Regulation 1/70 was mis-conceived and not maintainable”.

5. Government after careful examination of the matter set aside the orders of the Agent to Government, Eluru in SR. No.835/90, dt:15-7-1992 and allowed the Revision Petition accordingly.

6. The Collector, West Godavari / Agent to Government, Kota Ramachandrapuram is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**A.K.TIGIDI,
PRL. SECRETARY TO GOVERNMENT.**

To

The Collector, West Godavari District.

(With RPAD of the following Records)

1. Case SR No.835/90 Containing pp 1-35 pages only.

2. S.R.A No.15/92 CFP-91, NFP-14 only.

The Addl. Agent to Government, Eluru, West Godavari District

The Special Dy. Collector (TW), Kotaramachandrapuram, West Godavari Dist.

The Mandal Revenue Officer, Buttaiahgudem (M), West Godavari.

Sri N.S. Bhaskara Rao, Advocate,

H.No.201, Saleem Nagar Colony, Malakpet, Hyd.

Sri Galem Laxmi Narayana, S/o Subbanna,

R/o Vendanthapuram, Koyyalagudem (M), West Godavari.

Smt Maddala Mangamma @ Mangayamma W/o Tata Rao,

R/o Bayyagudem, Koyyalagudem (M), West Godavari.

Copy to the P.S. to M (TW&RAID).

SF / SC

// FORWARDED BY ORDER //

SECTION OFFICER